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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,673	07/16/2004	Satoshi Ohtsuka	2004-1069A	2287

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EXAMINER

MCNELIS, KATHLEEN A

ART UNIT PAPER NUMBER

1742

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,673

Applicant(s)

OHTSUKA ET AL.

Examiner

Kathleen A. McNelis

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/26/06
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1742

1. The indicated allowability of claim 2 is withdrawn in view of the references, U.S.

Pat. No. 4,963,200 and Novant Trionix. A rejection based on the newly cited references follows:

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okuda et al. (U.S. Pat. No. 4,963,200) in view of www.novantchemcials.com.

Okuda et al. ('200) discloses a method of manufacturing an oxide dispersion strengthened ferritic steel (abstract) excellent in high-temperature creep strength (col. 2, lines 53-54) having a coarse grain structure, and method comprising mixing either element powders or alloy powders and a Y_2O_3 powder (abstract), subjecting the mixed powder to mechanical alloying treatment, solidifying the resulting alloyed powder by hot extrusion, and subjecting the resulting extruded solidified material to final heat treatment involving heating to and holding at a temperature of not less than the Ac_3 transformation point and slow cooling at a rate of not more than a ferrite-forming critical rate to thereby manufacture an oxide dispersion strengthened ferritic steel which comprises, as expressed by % by weight, 0.05 to 0.25% C, 8.0 to 12.0% Cr, 0.1 to 4.0% W, 0.1 to 1.0% Ti, 0.1 to 0.5% Y_2O_3 (abstract and col. 3 lines 19-33) with the balance being Fe

and unavoidable impurities and in which Y_2O_3 particles are dispersed in the steel. '200 does not disclose the mechanical alloying treatment so that an excess oxygen content in the steel (a value obtained by subtracting an oxygen content in Y_2O_3 from an oxygen content in steel) satisfies $0.67-15-2.7C+0.45 > Ex.O > 0.67-15-2.7C_{35}$; where Ex.O: excess oxygen content in steel; % by weight, Ti: Ti content in steel; % by weight C: C content in steel, % by weight. However, the article to Novant Trionix teaches that it is known that the addition of Fe_2O_3 is used to improve durability and weather fastness or corrosion prevention. Therefore, it would have been obvious to one of ordinary skill in the art to add Fe_2O_3 to the composition of '200 in order to improve the corrosion resistance and durability of the composition. Although the amount of Fe_2O_3 is not set forth, applicant has also not set forth the specific amount of Fe_2O_3 needed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen A. McNelis whose telephone number is 571-272-3554. The examiner can normally be reached on M-F 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 10/501,673

Page 4

Art Unit: 1742

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ROY KING
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700